



WINE AND SPIRITS WHOLESALERS OF CONNECTICUT, INC.

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TESTIMONY OF WINE AND SPIRITS WHOLESALERS OF CONNECTICUT

In Opposition to: S.B.992 An Act Concerning Wine Festivals

The Wine & Spirits Wholesalers of Connecticut, Inc. oppose Proposed Bill S.B.992 An Act Concerning Connecticut Wine Festivals, on the grounds that: (1) the proposal breaks a prior agreement relative to the issue; and (2) the proposed bill, if enacted, will provide Connecticut Farm Wineries yet another unfair competitive advantage over other industry members. This bill is identical to S.B.866 which was voted out of the General Law Committee.

The proposed bill seeks to increase the number of wine festivals from one to two. The stated purpose of the proposed bill is to provide yet another, benefit to Connecticut farm wineries by permitting them to hold and profit from an additional wine festival.

The ability to hold such a festival was originally granted in 2009 by PA 09-42. The 2009 provision was discussed among industry members and regulators at length. The agreement which was reached, just two years ago was that farm wineries could hold a single wine festival. This proposal breaks that agreement and seeks to double the number of festivals.

In order to understand how the proposed change provides an unfair competitive advantage to Connecticut Farm Wineries one must have a basic understanding of the State's control and regulation of wine, spirits and beer, collectively referred to as beverage alcohol.

Historically, the Three-Tier System was adopted by the majority of the states upon the repeal of prohibition as the appropriate way to regulate the sales and distribution of alcohol. See Lawson, *The Future of the Three Tiered System as a Control of Marketing Alcoholic Beverages* (2008). The "Three-Tier System was one of two systems of control and distribution recommended by Fosdick and Scott in their 1933 report *Toward Liquor Control*, which was commissioned by John J. Rockefeller, Jr. Generally speaking, the goals of the Three-Tier System of distribution are: to promote the states' interests in promoting temperance; and to provide for a accountable system of tax collection, within the frame work of a private enterprise system. Id. Those states which choose not to adopt the Three-Tier System adopted the State controlled model of distribution. Key to the Three-Tier System are two essential elements: (i) the segmentation of the distribution system among manufacturers, wholesalers and retailers; and (ii) various prohibitions preventing one tier from dominating another tier commonly referred to as "tied house" prohibitions. Id. "'Tied house' arrangements encouraged the promotion of alcohol consumption beyond the acceptable limits: 'Besides pressuring retailers to handle only their brands, suppliers pushed retailers to increase sales whatever the social costs' (citation omitted)" Jurkiewicz and Painter, *Why We Control Alcohol the Way we Do* (2008)

Connecticut Farm Wineries, however, represent a total and absolute deviation from the Three-Tier System of distribution as they fulfill the functions of manufacture, wholesaler and retailer. As such, Connecticut Farm Wineries currently enjoy privileges that are not afforded to other industry members. By way of example, Connecticut Farm Wineries, unlike other manufacturers, are permitted to sell at wholesale to retailers and to sell directly to consumers. Unlike other off premise retailers, that is package stores, Connecticut Farm Wineries are not limited to days (i.e. Sundays) on which they can sell to consumers. Additionally, unlike a package store but like a restaurant, Connecticut Farm Wineries can also sell wine by the glass for on premises consumption. These special privileges, among others such as preferential tax treatment and state funding grants, set Connecticut Farm Wineries apart from other industry members and unencumbered by the restrictions placed upon those other members.

Not only are these special privileges afforded to Connecticut Farm Wineries, but as a result of the United States Supreme Court decision in the Granholm case (544 U.S. 410 (2005)) Connecticut was compelled to extend those same privileges to out of state wineries. See C.G.S. §§ 30-18 & 30-18a.

Now the Connecticut Farm Wineries seek yet another advantage that being the ability to profit from a two day wine festival off of their permitted premises. (All sellers of alcohol, including manufacturers and wholesalers, but excluding caterers, must sell alcohol from their "permitted premises.") While the special privileges might have initially been justified as been needed to encourage the development of a non-existent wine industry in Connecticut, the granting of additional privileges to a mature industry is unwarranted and unfair to the other industry members.